IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY APPLICATION NO.456 OF 2007
IN
COMPANY PETITION NO.708 OF 1989

M/s.M.P.Traders .. Petitioners.
And
Mr.Bhupendra R.Bhatia .. Applicant.
Vs.
The Official Liquidator,
High Court, Bombay, the
provisional liquidator of
M/s.Narmada Valley Chemicals
Industries Pvt. Ltd. .. Respondent.

WITH

COMPANY APPLICATION NO.959 OF 2007
IN
COMPANY PETITION NO.708 OF 1989

M/s.M.P.Traders .. Petitioners.
And
Bharuch Jilla Audyogic
Kamdar Mandal .. Applicant.
Vs.
The Official Liquidator,
High Court, Bombay, the
provisional liquidator of
M/s.Narmada Valley Chemicals
Industries Pvt. Ltd. .. Respondent.

WITH

COMPANY APPLICATION NO.960 OF 2007
IN
COMPANY PETITION NO.708 OF 1989

M/s.M.P.Traders .. Petitioners.
And.
Kaushikbhai Natvarlal Kanojia .. Applicant.
Vs.
The Official Liquidator,
High Court, Bombay, the
provisional liquidator of
M/s.Narmada Valley Chemicals
Industries Pvt. Ltd. .. Respondent.

WITH

COMPANY APPLICATION NO.961 OF 2007
IN

COMPANY PETITION NO.708 OF 1989

M/s.M.P.Traders .. Petitioners.
And
Parsottambhai Zaverbhai Patel .. Applicant.
Vs.
The Official Liquidator,
High Court, Bombay, the
provisional liquidator of
M/s.Narmada Valley Chemicals
Industries Pvt. Ltd. .. Respondent.

Mr.B.K.Bali i/b Thakker & Bali for the applicant in company application no.456 of 2007.

Mrs.K.V.Gautam, Dy.O.L. present.

Mr.Noor Mohammed H.Shaikh, T.RO-4(3), I.T.Dept. present.

CORAM : D.B.BHOSALE, J.
DATED : 5TH OCTOBER, 2007.
P.C.:

. Heard learned counsel for the parties.

2. By this application the respondent-company, in company petition No.708 of 1989, has prayed for dismissal of the company petition and for cancellation of the appointment of the official liquidator as provisional liquidator of the said company with a direction to hand them over vacant possession of their registered office, documents and books of account etc.

3. It appears that at the stage of admission the parties had entered into consent terms and the order

in terms of the consent terms was passed on 9th January, 1992. The consent terms had provided the schedule of payment to the petitioner. It had further provided the default clause under which default in payment of any two instalments on their respective due dates, as mentioned in the schedule, the petition was to stand admitted with direction to advertise the petition in two daily newspapers. It appears that in view of the defaults the petition stood admitted. On 22.11.1989 the learned Single Judge had passed an ad-interim order appointing the liquidator as provisional liquidator of the company and directed to take charge of all the assets of the company. This court is informed that the official liquidator accordingly had taken charge of all the assets. However, as of today, except the registered office of the company, all the assets are in possession of the receiver appointed by the Debt Recovery Tribunal.

4. During pendency of the petition the applicants seem to have satisfied claims of all the creditors who had filed their claims with the official liquidator. Insofar as the petitioner in present petition is concerned since none appears for them the applicants-company has deposited their claim amount with interest of Rs.1,63,000/- by demand draft

with the official liquidator. The official liquidator confirms receipt of the demand draft. This court is informed that except the creditors mentioned above there are no other creditors.

5. The official liquidator in the affidavit has given the details of the claims received and the action taken by the official liquidator. Item No.8 thereof show that the income tax department was one of the creditors. The claim of the income tax department is shown to have been rejected by the official liquidator in view of the fact that the advocate for the applicant-company had shown proof of the payment of the outstanding amount of tax liability to the department. Today one Mr.Noor Mohammed Shaikh, T.RO-4(3), Mumbai I.T.Dept., Mumbai is present in the court and he confirms that the principal amount has been paid by the applicant-company. He further states that an amount of interest of Rs.12,68,017/- is still outstanding. Mr.Bali, learned counsel for the applicant-company submits that the company has made an application for waiver of the interest and that is pending before the Commissioner of Income Tax-4. He, on behalf of the applicant-company, undertakes to make payment of the interest, if ordered, within a period of four weeks from the date of the order passed by the

Commissioner. He has filed affidavit stating so in this court dated 4th October, 2007. The undertaking is accepted.

6. It appears that the applicant-company has also deposited Rs.2,36,095/- by demand draft with the official liquidator towards outstanding claims and the security charges. The demand draft is dated 23.3.2007 which according to the official liquidator needs to be replaced. Mr.Bali, learned counsel on behalf of the applicant-company undertakes to replace the demand draft within two weeks from today. Such undertaking is also incorporated in the affidavit dated 4th October, 2007. The undertaking is accepted.

7. The petition was advertised after it stood admitted in pursuance of the conditional order passed by this court. The official liquidator states that except the registered office of the company they do not have any other, moveable or immoveable, property in their possession. This statement has not been disputed by learned counsel for the applicant-company.

8. Taking overall view of the matter and considering that the claims of all the creditors are

satisfied this company application is made absolute in terms of prayer clause (a) and (b).

9. This order, however, shall come into effect only after replacement of the demand draft dated 27.3.2007 of Rs.2,36,095/- as aforestated. The official liquidator is allowed to release payment of the security agency only on receipt of the amount of Rs.2,36,095/- as aforesaid and to handover possession of the registered office of the applicant-company. Insofar as Rs.1,63,000/- deposited by the applicant-company towards the claim of the petitioner in company petition is concerned, the official liquidator is directed to issue notice to the petitioner on their address on record asking them to collect the amount deposited by the applicant-company. Similarly, the applicant-company is also directed to communicate this order to the petitioner within four weeks from today. If the petitioner does not come forward to collect the amount towards their claim within six months from today it would be open for the applicant-company to file appropriate application for further directions from this court with an affidavit stating as to what efforts were made by them to communicate this order to the petitioner. With these directions the application stands disposed of.

(D.B.BHOSALE, J.)